



W.P.No.8567 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.01.2025

CORAM

THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.8567 of 2019

M.Gopal

... Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai 600 003.
2. The Zonal Officer,
New Zone XV,
Greater Chennai Corporation,
Sholinganallur,
Chennai 600 119.
3. The Secretary to Government,
Municipal Administration,
Water Supply Department,
Government of Tamil Nadu, Fort St. George,
Chennai 600 009.

... Respondents



PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records the proceedings Ma.A.Ma.15.Na.Ka.No.A3/03520/2017, dated 01.11.2017 issued by the 2nd respondent and quash the same and consequentially directing the first respondent to take 50% of temporary service of the petitioner served in the 1st respondent Corporation from 1973 to 31.03.1984 as per G.O.408 dated 25.08.2009, Finance Department (Pension) and other service benefits along with interest to the petitioner and grant such further or other reliefs.

For Petitioner : M/s.N.Beulah John Selvaraj

For Respondents

for RR1 & 2 : Mr.S.Gopinathan

for R3 : Mr.S.Rajesh

ORDER

This petition has been filed to quash the proceedings in Ma.A.Ma.15.Na.Ka.No.A3/03520/2017, dated 01.11.2017 issued by the 2nd respondent and consequently direct the first respondent to take 50% of temporary service of the petitioner served in the 1st respondent Corporation from 1973 to 31.03.1984 as per G.O.408 dated 25.08.2009, Finance Department (Pension) and other service benefits along with interest to the petitioner and grant such further or other reliefs.



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2. The case of the petitioner is that he was appointed as substitute sanitary worker in the year 1973 and while he was working in Old Division 180 Old Zone XIII, he was made permanent on 31.03.1984. He retired from service on 31.07.2018 on attaining the age of superannuation and at the time of retirement, he was working as sanitary worker in Division 193 Unit-45, Zone XV Greater Corporation of Chennai. Thereafter, he made representations to the first respondent on 14.11.2014, 01.01.2015 and 07.04.2017 requesting to count his 50% of temporary service from 1973 to 31.03.1984 along with regular service for payment of pensionary benefit as per the G.O.Ms.408 Finance Department dated 25.08.2009. As there was no response from the respondents, the petitioner was constrained to file a Writ Petition No.12400 of 2017 before this Court. The said Writ Petition was disposed of by an order dated 10.05.2017 with a direction to the first respondent to consider and dispose of the representations of the petitioner dated 21.01.2015 and 07.04.2017 on merits within a period of twelve weeks from the date of receipt of a copy of the said order. In compliance of the said order, the respondents passed the impugned order dated 01.11.2017, wherein the request of the petitioner was rejected. Aggrieved by the same, the present Writ Petition has been filed.



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3. On behalf of the respondents a counter affidavit has been filed, wherein it is averred that in compliance of the order of this Court in WP.No.12400 of 2017, the petitioner was called for an enquiry and he was asked to furnish the documents of service between the period 1973 and 1984, for which the petitioner responded that no such document is available with him. Thereafter, the respondent Corporation ascertained with Zone-IX and Zone-X that the petitioner had not been in service and no documents were available to help him out and hence, passed the impugned order.

4. The learned counsel for the petitioner would submit that the petitioner worked as substitute sanitary worker from 1973 to 1984 in the respondent Corporation. Accordingly, he is entitled for 50% temporary service along with regular service for payment of pensionary benefits.

5. The learned counsel further contends that in the impugned order dated 01.11.2017 itself, it is mentioned that in the letter dated 19.07.2017 of the Zonal Officer, Zone-IX, it is stated that the petitioner worked from 1973 to 1984 in the Old Zone-IX in Section-131 and it is further stated that the file has been sent to Zone-X. Hence, it is proved that the petitioner worked



in the respondent Corporation as substitute sanitary worker during the period from 1973 to 1984. As such, the contention of the respondents on this aspect is untenable and accordingly, the learned counsel for the petitioner sought to allow this Writ Petition.

6. On the other hand, the learned counsel appearing for the respondents would submit that in compliance of the order of this Court in Writ Petition No.12400 of 2017, the petitioner was called for enquiry and asked to produce the documents to prove that he was working between 1973 and 1984, but the petitioner could not produce the same. As the petitioner failed to produce the documents, his request to count 50% of the temporary service from 1973 to 1984 is not feasible and therefore, the respondents passed the order rejecting the request of the petitioner, which is reasonable and legal. Accordingly, he sought to dismiss the Writ Petition.

7. Having heard the submissions of the respective counsels and carefully perused the materials available on record, this Court fully agrees with the contention of the learned counsel for the petitioner that he worked as substitute sanitary worker in the respondent Corporation between 1973



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and 1984 in the light of the letter dated 19.07.2017 of the Zonal Officer, Zone-IX, which was referred in reference No.4 of the impugned order, wherein it is stated that the petitioner worked in Zone-IX, which is now called as Zone-X, as substitute sanitary worker from 1973 to 1984 and the concern file has been sent to Zone-X. Though the respondents are contending that the concern file is not available in Zone-IX or Zone-X, it is their responsibility to keep all the records in safe condition. This Court cannot brush aside the contention of the learned counsel for the petitioner that as being illiterate person only, the petitioner worked as sanitary worker. Since the petitioner being a sanitary worker, this Court cannot expect that he will preserve all the documents with him from 1973.

8. When the responsible officers working in the Corporation failed to preserve the records properly, they cannot insist the petitioner to produce those documents and for non production of the documents only, rejecting the petitioner's request is untenable and unsustainable. The respondents ought to have consider the letter dated 19.07.2017 of the Zonal Officer, Zone-IX, which was referred in the reference 4 of the impugned order and ought to have consider the request of the petitioner to count 50% of his



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temporary work rendered as sanitary worker in the respondent Corporation.

Instead of that, the respondents rejecting the request of the petitioner on flimsy ground is not acceptable to this Court.

9. In the considered opinion of this Court, the petitioner is entitled for the relief sought for in this Writ Petition. Accordingly, this Writ Petition is allowed with the following directions:

i) The proceedings in Ma.A.Ma.15.Na.Ka.No.A3/03520/2017, dated 01.11.2017 issued by the second respondent is hereby quashed.

ii) The first respondent is directed to take 50% of the temporary service of the petitioner served in the respondent Corporation from 1973 to 31.03.1984 as per G.O.408, Finance Department (Pension), dated 25.08.2009 and pay all benefits which the petitioner is entitled within a period of six weeks from the date of receipt of a copy of this order.

No costs.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs



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